

UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS
MEETING MINUTES

The Virginia Board of Funeral Directors and Embalmers convened for a board meeting on Monday, June 1, 2009 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, 2nd Floor, Conference Room #2, Henrico, Virginia.

The following Board members were present:

Willard D. Tharp, FSP
Billie Watson Hughes, FSP
Michael Leonard, FSP
Randolph T. Minter, FSP
Barry Murphy, FSP
Blair Nelsen, FSP
Robert B. Burger, Jr., FSP

The following Board member was absent for part of the meeting:

Rev. Yvonne Jones Bibbs
Walter Ball

DHP staff present for all or part of the meeting included:

Lisa R. Hahn, Executive Director
Emily O. Wingfield, Chief Deputy Director
Elaine J. Yeatts, Senior Policy Analyst
Kathy Truesdale, Compliance Case Manager
Missy Currier, Administrative Assistant

Representative from the Office of the Attorney General was present for the meeting:

Amy Marschean, Senior Assistant Attorney General

Quorum:

With 7 members present, a quorum was established.

Guests Present:

Steven Combs, Virginia Department of Veteran Services
Barry Robinson, Education Chair for the Virginia Morticians Association
Meredyth Partridge, Regulatory Support Services, Inc. (RSS)
Lacy Whittaker, Virginia Funeral Directors Association
Bo Keeney, Association of Independent Funeral Homes of Virginia (IFHV)
Bruce Keeney, Association of Independent Funeral Homes of Virginia (IFHV)

CALLED TO ORDER

Mr. Tharp, President, called the Board meeting to order at 9:06 a.m.

ORDERING OF AGENDA

Upon a motion by Ms. Hughes and properly seconded by Mr. Minter, the Board voted to approve the agenda.

The members voting yes were Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, Mr. Burger and Mr. Tharp.

Rev. Bibbs & Mr. Ball had not yet arrived.

The motion passed unanimously.

ACCEPTANCE OF MINUTES

Upon a motion by Mr. Minter and properly seconded by Ms. Hughes, the Board voted to accept the amended minutes of the March 24, 2009 board meeting.

The members voting yes were Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, Mr. Burger and Mr. Tharp.

Rev. Bibbs & Mr. Ball had not yet arrived.

The motion passed unanimously.

PUBLIC COMMENT PERIOD

Mr. Tharp announced that Margaret H. "Meg" Mountcastle, the first female president of the Virginia Funeral Directors Association, died May 30, 2009. Meg Mountcastle was also a member and served as President of the Virginia Board of Funeral Directors and Embalmers. She was a wonderful leader and spokesperson for the profession. In appreciation for her dedication and accomplishments the board would like to have a proclamation acted upon at the 2010 General Assembly.

Mr. Robinson invited the members to attend the Virginia Morticians Association conference being held from June 22-23, 2009 at the Marriott in Williamsburg, Virginia. He mentioned that Ms. Hahn will be participating and making a presentation.

AGENCY DIRECTOR'S REPORT – Ms. Emily Wingfield,

Ms. Wingfield, Chief Deputy Director, stated Ms. Ryals was traveling on business and would be unable to attend the meeting. Ms. Wingfield referred to a memo by Ms. Ryals

regarding revenue and expenditures and mentioned that Ms. Ryals will be providing the members with a power point presentation at the September 8th meeting regarding fee increases.

EXECUTIVE DIRECTOR'S REPORT – Lisa R. Hahn

Licensee Statistics

Ms. Hahn provided a handout with the funeral licensee statistics as of May 29, 2009

Discipline Statistics

Ms. Hahn reported that we currently have 30 open cases; 19 are in investigations; 2 are at the Administrative Proceedings Division (APD) stage, 6 are in probable cause, 2 cases at the formal stage and 1 case at the informal stage of which 1 will be heard following the board meeting.

Budget

Ms. Hahn presented the board with the budget information as of March 31, 2009. She stated that the cash balance as of March 31, 2009 was \$135,763. Ms. Hahn stated that she anticipates a cash shortfall at year end.

2009 Board Calendar

Ms. Hahn stated the next board meeting is scheduled for September 8, 2009.

New Business

Mr. Combs, the Director of Policy & Planning for the Virginia Department of Veterans Services made a presentation to the members regarding Missing in America Program (MOU), a project to identify the unclaimed cremains of veterans. The ultimate goal of the program is to be able to bury qualified veterans in a National Cemetery and to provide them with full military honors.

Upon a motion by Mr. Burger and properly seconded by Ms. Hughes, the board agreed to support this honorable project and move it forward for the Department to review and Fast Track.

The members voting yes were Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, Mr. Burger and Mr. Tharp.

Rev. Bibbs & Mr. Ball had not yet arrived.

The motion passed unanimously.

Rev. Bibbs arrived at 9:30 a.m.

Identification of Remains for Cremation – Legislative Proposal #1

§ 54.1-2818.1 Prerequisites for cremation.

No dead human body shall be cremated without ~~(i)~~(1) permission of the medical examiner as required by § 32.1-284 and either ~~(ii)~~ (2) ~~visual~~ positive identification of the deceased by the next-of-kin or his representative, who may be any person designated to make arrangements for the decedent's burial or the disposition of his remains pursuant to §54.1-2825 or an agent named in an advance directive pursuant to § 54.1-2984. ~~or (iii) a twenty-four-hour waiting period between the time of death and the cremation.~~

Upon a motion by Mr. Nelsen, and properly seconded by Mr. Leonard, the board voted to accept the proposed regulation as amended to be enacted within 280 days.

The members voting yes were Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, Mr. Burger, Mr. Tharp and Rev. Bibbs.

Mr. Ball had not yet arrived.

The motion passed unanimously.

Courtesy Card Privileges – Legislative Proposal #2

§ 54.1-2801. Exemptions.

A. The provisions of this chapter shall not apply to any officer of local or state institutions or to the burial of the bodies of inmates of state institutions when buried at the expense of the Commonwealth or any of its political subdivisions.

B. Any person holding a license as a funeral director or embalmer or an equivalent in another state, having substantially similar requirements as the Board, may apply to the Board for courtesy card privileges to remove bodies from and to arrange funerals or embalm bodies in this Commonwealth. However, these privileges shall not include the right to establish or engage generally in the business of funeral directing and embalming in Virginia and shall only be granted to licensees of another state that grants similar courtesy card privileges to licensees of Virginia.

Upon a motion by Mr. Murphy, and properly seconded by Ms. Hughes, the board voted to accept the proposed regulation as amended.

The members voting yes were Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, Mr. Burger, Mr. Tharp and Rev. Bibbs.

Mr. Ball had not yet arrived.

The motion passed unanimously.

Release of Information to FSP related to Section 38.2-612.1

Upon a motion by Ms. Hughes, and properly seconded by Mr. Nelsen, the board agreed to direct a letter to Mr. Fred Carter supporting his efforts. Additionally, Ms. Hahn will draft a letter to the Bureau of Insurance asking them to review the suggestions to determine if there might be a positive solution for all parties involved.

The members voting yes were Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, Mr. Burger, Mr. Tharp and Rev. Bibbs.

Mr. Ball had not yet arrived.

The motion passed unanimously.

Appendices I, II, and III

Ms. Yeatts stated that she will review the language in the code and the regulations to ensure consistency regarding the usage of the terms.

Cremation Authorization Form

During the March 24, 2009 board meeting, discussion took place regarding whose signature is required on a cremation authorization and also the Itemized Statement of Goods and Services. The board agreed not to make any changes to the forms and to continue to require the signature of the Funeral Service Provider.

Break

The board recessed for a break at 10:15 a.m.

The board reconvened at 10:35 a.m.

Continuing Education Courses

Much discussion was made regarding the subject of out of state CE compliance. Specifically, does someone holding a license in Virginia living out-of-state get credit for taking CE courses of laws and regulations of states other than Virginia regarding the funeral profession? Amy Marschean indicated that the one hour requirement for Preneed is state specific and therefore must be completed in Virginia in order to be in compliance with the regulations.

Mr. Minter and Mr. Nelsen mentioned that the changes to the CE requirements seemed impractical and onerous to the staff to be able to audit and ensure that licensee's were carrying out the law.

A motion was made by Minter and properly seconded by Mr. Nelsen to change the CE requirements to the original 10 hours. After discussion, the motion was withdrawn by Mr. Minter and Mr. Nelsen.

Ms. Hahn suggested that the board allow the staff to complete a renewal and audit cycle before any changes are made to the current regulation.

The board reiterated that we accept only Virginia Preneed to meet the CE requirement as is written in the current regulations.

Further discussion included Mr. Leonard mentioning that there are only 2 Preneed providers currently in Virginia. For the first audit conducted, the board will accept out of state Preneed and will plan to follow up with an advisory letter to the licensee.

Ms. Hughes inquired about what percentage of licensee's get audited. Ms. Hahn stated that the next audit numbers will be run by Liz Carter, DHP's Statistician, who will base the final count on several variables. Ms. Hahn will share these numbers with the board prior to the audit being completed.

Mr. Ball arrived at 10:55 a.m.

Regulatory Status Report – Elaine Yeatts

Ms. Yeatts provided a handout showing the following effective dates for regulatory actions; July 8, 2009 for Standards for Crematories, July 1, 2009 for Address of Record/Public Address, and July 1, 2009 for Preneed Contracts/Life Insurance. Ms. Hahn will post an alert on the website regarding the changes in the regulations.

Review of Draft Regulations

Transportation and Storage of Remains

The Board was in agreement with the following draft regulations:

Human remains shall be transported for storage in a container that substantially meets all the following standards:

- a. Be able to be closed in order to provide complete covering for the human remains;
- b. Be resistant to leakage or spillage; and
- c. Be rigid enough for handling with ease.

Disclosures

The Board was in agreement with the following draft regulation:

If a body is to be stored for more than 10 days after taking custody thereof, the funeral establishment shall notify the next of kin of the location where the body is stored and the method of storage.

Refrigeration

Upon taking custody thereof, a funeral establishment shall either embalm a dead human body or maintain the remains in refrigeration at 40 degrees Fahrenheit or less if it is to be stored for more than 24 hours.

The Board Members discussed the proposed regulation regarding refrigeration of dead human remains. The members agreed that prior to finalizing any decisions, further discussions and research would be necessary. The board appointed an ad hoc committee to meet with various groups and associations affiliated with the funeral profession. The following members volunteered to work on the committee; Mr. Nelsen, Ms. Hughes, Mr. Murphy and Mr. Leonard. Ms. Hahn will schedule and organize a meeting to be held at DHP and inform all the board members and Funeral Associations.

Animal Transportation and Refrigeration

Mr. Nelsen suggested that the subject of animal transportation and refrigeration be discussed as part of the ad-hoc meeting.

Election of Officers

Upon a motion by Ms. Hughes and properly seconded by Mr. Nelsen, the board nominated the election of Mr. Minter as Board President.

The members voting yes were Mr. Ball, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, Mr. Burger, Mr. Tharp and Rev. Bibbs.

All members were present.

The motion passed unanimously.

Upon a motion by Ms. Hughes and properly seconded by Mr. Burger, the board nominated the election of Mr. Leonard as Board Vice-President.

The members voting yes were Mr. Ball, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, Mr. Burger, Mr. Tharp and Rev. Bibbs.

All members were present.

The motion passed unanimously.

Upon a motion by Ms. Hughes and properly seconded by Mr. Nelsen, the board nominated the election of Mr. Burger as Board Secretary-Treasurer.

The members voting yes were Mr. Ball, Ms. Hughes, Mr. Leonard, Mr. Minter, Mr. Murphy, Mr. Nelsen, Mr. Burger, Mr. Tharp and Rev. Bibbs.

All members were present.

The motion passed unanimously.

Other Business

Mr. Tharp expressed his gratitude to the members for the confidence and trust they placed in him during his tenure as Board President. The board offered their thanks to Mr. Tharp for his service.

ADJOURNMENT

There being no further business before the Board, the meeting adjourned at 11:45 a.m.

Willard D. Tharp, FSP, President

Lisa R. Hahn, Executive Director

DATE

DATE